

## Remarks

### I. Status of the Application and Claims

The present application is a reissue of U.S. 6,479,551. Applicants have filed this application in order to correct errors that occurred during the prosecution of the application that issued as '551. These errors are fully described in the accompanying document entitled "Declaration of Michael A. Sanzo." The Examiner is invited to carefully consider all of the information provided therein in deciding upon the patentability of the claims in the present reissue application.

### II. Statement Regarding the Status of Claims

As of the date of the present amendment, claims 1-4 and 30-33 in the present reissue application have been cancelled. Claims 5-29 and 34-41 are pending and have not been amended relative to U.S. 6,479,551.

### III. Comments Regarding Amendments

Based upon the recognition that paracetamol is a non-acidic NSAID, Applicants believe that generic claims 1 and 2 in the issued '551 patent are invalid due to the reference by Poyser (US 4,325,971). Applicants have also cancelled all other claims that relied primarily on the non-acidic nature of the analgesic present in drug combinations for patentability. Specifically, Applicants have also cancelled claims 3, 4 and 30-33.<sup>1</sup> It should be emphasized however that Applicants actually believe that these claims are valid because Poyser does not recognize the general principle of using non-acidic NSAIDs as a means of maintaining the stability of preparations during storage. Thus, Applicants believe that Poyser renders the generic claims (*i.e.*, 1 and 2) invalid because it discloses a species falling within their scope, but they do not believe that the same is true for the more specific claims, *i.e.*, 3, 4 and 30-33. Applicants have cancelled these claims in the present application because they are desirous of obtaining an allowance as quickly as possible and would like to defer any possible obviousness issues that may be raised by the Examiner until a later time. Claims 3, 4 and 30-33 have been cancelled without prejudice and may be reintroduced in a divisional application filed at some time in the future.

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<sup>1</sup> Note that claims 22-29 are also directed to combinations containing a non-acidic analgesic and metoclopramide. However, these claims have the added requirement that dosage forms be coordinated.

The specification of the application was also amended to update the cross-referencing of applications and to provide a more accurate description of a second Poyser patent closely related to '971.

Applicants submit that the amendments described above do not add new matter to the application and their entry is therefore respectfully requested.

### Conclusion

In view of the above amendments, Applicants believe that the present reissue application is in condition for immediate allowance. If, in the opinion of the Examiner, a phone call may help to expedite the prosecution of this application, the Examiner is invited to Applicants' undersigned attorney at (202) 419-7013.

Respectfully submitted,

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